UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,371	10/02/2001	Noel Tenorio	020431.0917	1757

53184 7590 12/28/2006		EXAMINER
i2 TECHNOLOGIES US, INC.		CHANDLER, SARA M
ONE i2 PLACE, 11701 LUNA ROAD		
DALLAS, TX 75234	ART UNIT	PAPER NUMBER
	3693	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/28/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	09/970,371	TENORIO, NOEL
	Examiner	Art Unit
	Sara Chandler	3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *24 November 2006*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-29* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-29* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a) ☐ All b) ☐ Some * c) ☐ None of:

　　　　1. ☐ Certified copies of the priority documents have been received.

　　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 11/28/01 fails to comply with 37 CFR

1.98(a)(2), which requires a legible copy of each cited foreign patent document; each

non-patent literature publication or that portion which caused it to be listed; and all other

information or that portion which caused it to be listed. It has been placed in the

application file, but the information referred to therein has not been considered.

Specifically, copies of the NPL references O and U on the IDS are missing.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9 and 29 are rejected under 35 U.S.C. 112, first paragraph, as based

on a disclosure which is not enabling. The scope Claims 1 and 29 is broad because it

covers every conceivable system for achieving the stated purpose when the disclosure

only discloses that which was known to the inventor. Dependent claims 2-9 are

similarly rejected. See MPEP §2164.08(a).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
      obviousness or nonobviousness.

Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Moshal, US Pub. No. 2002/0032637.

Re Claims 1, 10 and 19: Moshal discloses a system/method/software for providing

visualization of market offers, comprising a computer system operable to:

receive offer data for a plurality of offers, the received offer data reflecting

values specified in the offers for a plurality of offer variables (Moshal, abstract, [0025]

[0026] [0027] [0044] [0045]); and

generate a display of the received offer data, the display comprising a plurality

of patterns, each pattern representing a particular offer and particular offer variable and

comprising a set of one or more geometric display elements that by virtue of their

appearance collectively encode, according to a predefined encoding scheme, a value

for the offer variable (Moshal, Figs. 1-18; [0006] [0024] [0026] [0027] [0029] [0030]

[0031] [0033] [0034] [0035] [0039] [0040] [0044] [0045] plurality offers (e.g., bid/ask,

seller/buyer), plurality of offer variables (e.g., #items, type, user, price, length of

participation etc.)).

Moshal fails to explicitly disclose a system/method/software comprising: a plurality of bars, each bar representing a particular offer variable.

Official Notice is taken that it was old and well-known at the time the invention was made to use charts and graphs to present and analyze numerical and text data. Specifically, it was old and well-known at the time of the invention to use a plurality of bars, each bar representing a particular offer variable. For example, Excel programs have been used frequently in reports, slide shows and presentations to show diagrams in the form of bars, lines and other visual forms.

Documentary Evidence:

Levine, US Pub. No. 2002/0178105 - Fig. 6 ;

Lee, US Pub. No. 2002/0065762 - Figs. 5-14; [0030] [0056]; and

Russell, US Pat. No. 7,020,630 - Fig. 8

Alternatively, the difference between Moshal and the claimed invention is non-functional descriptive material. The system/method/software of the claimed invention provides for a display comprising a plurality of bars, each bar representing particular offer variables, these features provide merely an ornamental arrangement of graphical images (See MPEP 2106 IV B 1 (b))

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Moshal to provide a system/method/software for providing visualization of market offers, comprising a computer system operable to: receive offer data for a plurality of offers, the received offer data reflecting

values specified in the offers for a plurality of offer variables; and generate a display of

the received offer data, the display comprising a plurality of patterns, each pattern

representing a particular offer and comprising a plurality of bars, each bar representing

a particular offer valuable and comprising a set of one or more geometric display

elements that by virtue of their appearance collectively encode, according to a

predefined encoding scheme, a value for the offer variable corresponding to the bar.

As suggested by Moshal, users should have access to an easily understandable

version of a the current state of critical data and any objects other than circles could be

used to represent the buyers and sellers (and inherently, there respective offers also).

Re Claims 2,11 and 20: Moshal discloses a system/method/software, wherein the

predefined encoding scheme is selected such that a set of geometric display elements

encoding a first value of a first offer variable in a first pattern associated with a first offer

are readily visually distinguishable from a set of geometric display elements encoding a

second value of the first offer variable in a second pattern associated with a second

offer if the first value is not substantially similar to the second value (Moshal, [0029]

[0030] [0031] [0033] [0035]).

Re Claims 3,12 and 21: Moshal discloses a system/method/software, wherein

the sets of geometric display elements encode associated values according to a

predefined color scheme (Moshal, [0031]); and

each geometric display element in a set of geometric display elements has a

color according to the value being represented and the predefined color scheme for

encoding the value in the set of geometric display elements, the color for a particular

geometric display element being different than the colors of other geometric display

elements in the same set of geometric display elements (Moshal, [0031]).

Re Claims 4,13 and 22: Moshal fails to explicitly disclose system/method/software,

wherein a user is a buyer and the offers comprise asks only from sellers on an

approved vendor list (AVL). Official Notice is taken that it is old and well-known for

buyers and sellers to limit their business transactions to preferred parties. Specifically,

it was old and well known to provide wherein a user is a buyer and the offers comprise

asks only from sellers on an approved vendor list (AVL). For example, preferred lists are

used in auctions, shopping, online transactions etc.

Documentary Evidence:

Reamer, US Pub. No. 2002/0194104 – abstract; [0016] [0018] [0021]; claims 2,3;

Edgar, US Pub. No. 2002/0091590 – [0026]; claim 3; and

Centner, US Pub. No. 2002/0007324 – [0005] [0015].

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify the teachings of Moshal to provide system/method/software,

wherein the user is a buyer and the offers comprise asks only from sellers on an

approved vendor list (AVL). One would have been motivated to avoid fraud, maintain

business related and facilitate a more efficient experience.

Re Claims 5,14 and 23: Moshal discloses a system/method/software, wherein a value

encoded in a set of geometric display elements comprises a range of values within a

predetermined range values (Moshal, [0029] [0030] [0031] [0033] [0035]).

Re Claims 6,15 and 24: Moshal fails to explicitly disclose a system/method/software, wherein the bars are columns. Official Notice is taken that it was old and well-known at the time the invention was made to use charts and graphs to present and analyze numerical and text data. Specifically, it is was old and well-known at the time of the invention to use a plurality of bars, each bar representing a particular offer variable. . For example, Excel programs have been used frequently in reports, slide shows and presentations to show diagrams in the form of bars, lines and other visual forms.

Documentary Evidence:

Levine, US Pub. No. 2002/0178105 - Fig. 6 ;

Lee, US Pub. No. 2002/0065762 - Figs. 5-14; [0030] [0056]; and

Russell, US Pat. No. 7,020,630 - Fig. 8

Alternatively, the difference between Moshal and the claimed invention is non-functional descriptive material. The system/method/software of the claimed invention provides for a display comprising a plurality of bars, each bar representing particular offer variables, these features provide merely an ornamental arrangement of graphical images (See MPEP 2106 IV B 1 (b)). It would have been obvious to one of ordinary skill in the art hat the time of the invention to modify the teachings of Moshal to disclose a system/method/software, wherein the bars are columns. As suggested by Moshal, users should have access to an easily understandable version of a the current state of critical data and any objects other than circles could be used to represent the buyers and sellers (and inherently, there respective offers also).

Re Claims 7,16 and 25: Moshal discloses a system/method/software, wherein the

computer system is operable to:

access a user request, the user request comprising a plurality of entered values

for a plurality of offer variables (Moshal, [0026] [0027]); and

generate within the display a pattern representing the user request, the pattern

for the user request comprising particular offer variables and comprising a set of one or

more geometric display elements that by virtue of their appearance collectively encode,

according to the predefined scheme, entered values for the offer variables, such that a

user may compare the pattern for the user request with the patterns for one or more

offers in connection with a market decision (Moshal, [0026] [0027]).

Moshal fails to explicitly disclose a system/method/software comprising: a

plurality of bars, each bar representing a particular offer variable. Official Notice is

taken that it was old and well-known at the time the invention was made to use charts

and graphs to present and analyze numerical and text data. Specifically, it is was old

and well-known at the time of the invention to use a plurality of bars, each bar

representing a particular offer variable. For example, Excel programs have been used

frequently in reports, slide shows and presentations to show diagrams in the form of

bars, lines and other visual forms.

Documentary Evidence:

Levine, US Pub. No. 2002/0178105 - Fig. 6 ;

Lee, US Pub. No. 2002/0065762 - Figs. 5-14; [0030] [0056]; and

Russell, US Pat. No. 7,020,630 - Fig. 8

Alternatively, the difference between Moshal and the claimed invention is non-functional descriptive material. The system/method/software of the claimed invention provides for a display comprising a plurality of bars, each bar representing particular offer variables, these features provide merely an ornamental arrangement of graphical images (See MPEP 2106 IV B 1 (b)).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Moshal to provide a system/method/software, wherein the computer system is operable to:

access a user request, the user request comprising a plurality of entered values for a plurality of offer variables; and generate within the display a pattern representing the user request, the pattern for the user request comprising a plurality of bars, each bar representing a particular offer variable and comprising a set of one or more geometric display elements that by virtue of their appearance collectively encode, according to the predefined scheme, an entered value for the offer variable corresponding to the bar, such that a user may compare the pattern for the user request with the patterns for one or more offers in connection with a market decision.

As suggested by Moshal, users should have access to an easily understandable version of a the current state of critical data and any objects other than objects other than circles could be used to represent the buyers and sellers (and inherently, there respective offers also).

Re Claims 8,17 and 26: Moshal discloses system/method/software, where the computer system is operable to:

receive a selection of a particular pattern associated with a particular offer (Moshal,

Figs. 1-18; [0006] [0024] [0026] [0027] [0029] [0030] [0031] [0033] [0034] [0035] [0039]

[0040] [0044] [0045] Inherent features);

receive an instruction to generate an order based on the values for the offer

associated with the selected pattern (Moshal, Figs. 1-18; [0006] [0024] [0026] [0027]

[0029] [0030] [0031] [0033] [0034] [0035] [0039] [0040] [0044] [0045] Inherent features);

in response to receiving the instruction, automatically generate an order based

on the values for the offer associated with the selected pattern (Moshal, Figs. 1-18;

[0006] [0024] [0026] [0027] [0029] [0030] [0031] [0033] [0034] [0035] [0039] [0040]

[0044] [0045] Inherent features); and

communicate the generated order for matching with the selected offer (Moshal, Figs. 1-

18; [0006] [0024] [0026] [0027] [0029] [0030] [0031] [0033] [0034] [0035] [0039] [0040]

[0044] [0045] Inherent features).

Re Claims 9, 18 and 27: Moshal discloses a system/method/software, wherein the

computer system is operable to display the values specified in the user request and the

values specified in the offer associated with the selected pattern to allow the user to

compare these values before providing an instruction to generate an order (Moshal,

Figs. 1-18; [0006] [0024] [0026] [0027] [0029] [0030] [0031] [0033] [0034] [0035] [0039]

[0040] [0044] [0045] Inherent features).

Re Claim 28: Moshal discloses a system for providing visualization of market offers,

comprising:

means for receiving offer data for a plurality of offers, the offer data reflecting

values specified in the offers for a plurality of offer variables (Moshal, abstract, [0025]

[0026] [0027] [0044] [0045]); and

means for generating a display of the received offer data, the display comprising a

plurality of patterns, each pattern representing a particular offer and particular offer

variable and comprising a set of one or more geometric display elements that by virtue

of their appearance collectively encode, according to a predefined encoding scheme, a

value for the offer variable (Moshal, Figs. 1-18; [0006] [0024] [0026] [0027] [0029]

[0030] [0031] [0033] [0034] [0035] [0039] [0040] [0044] [0045] plurality offers (e.g.,

bid/ask, seller/buyer), plurality of offer variables (e.g., #items, type, user, price, length of

participation etc.)).

    Moshal fails to explicitly disclose a system/method/software comprising: means

for providing a plurality of bars, each bar representing a particular offer variable. Official

Notice is taken that it was old and well-known at the time the invention was made to use

charts and graphs to present and analyze numerical and text data. Specifically, it is

was old and well-known at the time of the invention means for providing a plurality of

bars, each bar representing a particular offer variable. For example, Excel programs

have been used frequently in reports, slide shows and presentations to show diagrams

in the form of bars, lines and other visual forms.

Documentary Evidence:

Levine, US Pub. No. 2002/0178105 - Fig. 6 ;

Lee, US Pub. No. 2002/0065762 - Figs. 5-14; [0030] [0056]; and

Russell, US Pat. No. 7,020,630 - Fig. 8

Alternatively, the difference between Moshal and the claimed invention is non-functional descriptive material. The system/method/software of the claimed invention provides for a display comprising means for providing a plurality of bars, each bar representing a particular offer variable, these features provide merely an ornamental arrangement of graphical images (See MPEP 2106 IV B 1 (b)).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Moshal to provide a system for providing visualization of market offers, comprising: means for receiving offer data for a plurality of offers, the offer data reflecting values specified in the offers for a plurality of offer variables; and means for generating a display of the offer data, the display comprising a plurality of patterns, each pattern representing a particular offer and comprising a plurality of bars, each bar representing a particular offer variable and comprising a set of one or more geometric display elements that by virtue of their appearance collectively encode, according to a predefined encoding scheme, a value for the offer variable corresponding to the bar.

As suggested by Moshal, users should have access to an easily understandable version of a the current state of critical data and any objects other than objects other than circles could be used to represent the buyers and sellers (and inherently, there respective offers also).

Re Claim 29: Moshal discloses a system for providing visualization of market Offers, comprising a computer system Operable to:

receive offer data for a plurality of offers, the received offer data reflecting

values specified in the offers for a plurality of offer variables (Moshal, abstract, [0025]

[0026] [0027] [0044] [0045]); and

generate a display of the received offer data; the display comprising a plurality

of patterns, each pattern representing a particular offer and particular offer variable and

comprising a set of one or more geometric display elements that collectively encode,

according to a predefined encoding scheme, a value for the offer variable (Moshal, Figs.

1-18; [0006] [0024] [0026] [0027] [0029] [0030] [0031] [0033] [0034] [0035] [0039] [0040]

[0044] [0045] plurality offers (e.g., bid/ask, seller/buyer), plurality of offer variables (e.g.,

#items, type, user, price, length of participation etc.);

the predefined encoding scheme being selected such that a set of geometric display

elements encoding a first value of a first offer variable in a first pattern associated with a

first offer are readily visually distinguishable from a set of geometric display elements

encoding a second value of the first offer variable in a second pattern associated with a

second offer if the first value is not substantially similar to the second value (Moshal,

[0029] [0030] [0031] [0033] [0035]);

access a user request, the user request comprising a plurality of entered values

for a plurality of offer variables (Moshal, [0026] [0027]); and

generate within the display a pattern representing the user request, the pattern

for the user request comprising particular offer variables and comprising a set of one or

more geometric display elements that by virtue of their appearance collectively encode,

according to the predefined encoding scheme, entered values for the offer variables,

such that a user may compare the pattern for the user request with the patterns for one or more offers in connection with a market decision (Moshal, [0026] [0027] [0031])).

Moshal fails to explicitly disclose a system/method/software comprising: a plurality of bars, each bar representing a particular offer variable. Official Notice is taken that it was old and well-known at the time the invention was made to use charts and graphs to present and analyze numerical and text data. Specifically, it is was old and well-known at the time of the invention to use a plurality of bars, each bar representing a particular offer variable. For example, Excel programs have been used frequently in reports, slide shows and presentations to show diagrams in the form of bars, lines and other visual forms.

Documentary Evidence:

Levine, US Pub. No. 2002/0178105 - Fig. 6 ;

Lee, US Pub. No. 2002/0065762 - Figs. 5-14; [0030] [0056]; and

Russell, US Pat. No. 7,020,630 - Fig. 8

Alternatively, the difference between Moshal and the claimed invention is non-functional descriptive material. The system/method/software of the claimed invention provides for a display comprising means for providing a plurality of bars, each bar representing a particular offer variable; these features provide merely an ornamental arrangement of graphical images (See MPEP 2106 IV B 1 (b)).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Moshal to provide a system for providing visualization of market Offers, comprising a computer system operable to: receive offer

data for a plurality of offers, the received offer data reflecting values specified in the

offers for a plurality of offer variables; and generate a display of the received offer data,

the display comprising a plurality of patterns, each pattern representing a particular offer

and comprising a plurality of bars, each bar representing a particular offer variable and

comprising a set of one or more geometric display elements that collectively encode,

according to a predefined encoding scheme, a value for the offer variable corresponding

to the bar, the predefined encoding scheme being selected such that a set of geometric

display elements encoding a first value of a first offer variable in a first pattern

associated with a first offer are readily visually distinguishable from a set of geometric

display elements encoding a second value of the first offer variable in a second pattern

associated with a second offer if the first value is not substantially similar to the second

value; access a user request, the user request comprising a plurality of entered values

for a plurality of offer variables; and generate within the display a pattern representing

the user request, the pattern for the user request comprising a plurality of bars, each bar

representing a particular offer variable and comprising a set of one or more geometric

display elements that by virtue of their appearance collectively encode, according to the

predefined encoding scheme, an entered value for the offer variable corresponding to

the bar, such that a user may compare the pattern for the user request with the patterns

for one or more offers in connection with a market decision.

As suggested by Moshal, users should have access to an easily understandable

version of a the current state of critical data and any objects other than objects other

than circles could be used to represent the buyers and sellers (and inherently, there

respective offers also).

Response to Arguments

Double Patenting

Withdrawn in view of the Terminal Disclaimer (11/24/06).

Information Disclosure Statement

It is unclear what reference has been submitted that the applicant would like to

have considered.

112, paragraph 1

Applicant's arguments have been fully considered but they are not persuasive.

Claims 1 and 29 are rejected because they comprise single means claims. Dependent
Claims 2-9 are similarly rejected.

> A "single means" claim, i.e. where a means recitation does not appear in
> combination with another recited element or means, is subject to an undue
> breadth rejection under 35 U.S.C. 112, first paragraph. See In re Hyatt, 218
> USPQ 195, (CAFC 1983) and MPEP 2164.08(a).

> A single means claim, i.e., where a means recitation does not appear in
> combination with another recited element of means, is subject to an undue
> breadth rejection under 35 U.S.C. 112, first paragraph. In re Hyatt , 708 F.2d
> 712, 218 USPQ 195 (Fed. Cir. 1983) (A single means claim which covered every
> conceivable means for achieving the stated purpose was held nonenabling for
> the scope of the claim because the specification disclosed at most only those
> means known to the inventor). When claims depend on a recited property, a fact
> situation comparable to Hyatt is possible, where the claim covers every
> conceivable structure (means) for achieving the stated property (result) while the
> specification discloses at most only those known to the inventor. Although the
> court in Fiers v. Sugano , 984 F.2d 164, 25 USPQ2d 1601 (Fed. Cir. 1993) did
> not decide the enablement issue, it did suggest that a claim directed to all DNAs
> that code for a specified polypeptide is analogous to a single means claim.
> 2164.08(a) Single Means Claim

112, paragraph 2

Withdrawn in view of applicant's amendment.

103

Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues, the prior art fails to explicitly disclose, "A system for providing

visualization of market offers."

In response to applicant's arguments, the recitation has not been given

patentable weight because the recitation occurs in the preamble. A preamble is

generally not accorded any patentable weight where it merely recites the purpose of a

process or the intended use of a structure, and where the body of the claim does not

depend on the preamble for completeness but, instead, the process steps or structural

limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA

1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Applicant argues, that Official Notice has been traversed and the Official Notice is

improper under MPEP § 2144.03.

Official Notice was taken that it was old and well-known in the art at the time the

invention was made to:

(1) provide a system/method/software wherein a display further comprises a plurality of

bars, each bar representing a particular offer variable; and

(2) provide a system/method/software, wherein the user is a buyer and the offers

comprise asks only from sellers on an approved vendor list (AVL).

Applicant failed to adequately traverse the Official Notice taken because the

applicant has failed to state why the noticed fact is not common knowledge or well-

known in the art.

> To adequately traverse such a finding, an applicant must specifically point out the
> supposed errors in the examiner's action, which would include stating why the
> noticed fact is not considered to be common knowledge or well-known in the art.
> See 37 CFR 1.111(b). See MPEP § 2144.03(C).

> Due to the inadequate traversal, the Official Notice is taken as admitted prior art.

> If the applicant does not traverse the examiner's assertion of official notice or
> applicant's traverse is not adequate, the examiner should clearly indicate in the
> next Office action that the common knowledge or well-known in the art statement
> is taken to be admitted prior art because applicant either failed to traverse the
> examiner's assertion of official notice or that the traversal was inadequate. If the
> traverse was inadequate, the examiner should include an explanation as to why it
> was inadequate. See MPEP § 2144.03(C).

Nevertheless, Documentary Evidence in support of the Official Notice taken has

been submitted.

In regards to the assertion that it was old and well-known to (1) provide a

system/method/software wherein a display further comprises a plurality of bars, each

bar representing a particular offer variable. The following evidence shows the use

charts and graphs to present and analyze numerical and text data. Specifically, a

plurality of bars, each bar representing a particular offer variable.

Documentary Evidence:

Levine, US Pub. No. 2002/0178105 - Fig. 6 ;

Lee, US Pub. No. 2002/0065762 - Figs. 5-14; [0030] [0056]; and

Russell, US Pat. No. 7,020,630 - Fig. 8

In regards to the assertion that is was old and well-known to 2) provide a

system/method/software, wherein the user is a buyer and the offers comprise asks only

from sellers on an approved vendor list (AVL). The following references show buyers

and sellers limiting their business transactions to preferred parties. Specifically,

showing wherein the user is a buyer and the offers comprise asks only from sellers on

an approved vendor list (AVL).

Documentary Evidence:

Reamer, US Pub. No. 2002/0194104 – abstract; [0016] [0018] [0021]; claims 2,3;

Edgar, US Pub. No. 2002/0091590 – [0026]; claim 3; and

Centner, US Pub. No. 2002/0007324 – [0005] [0015].

   Applicant, argues that there is no teaching, suggestion or motivation to modify

the reference (Moshal).

   In response to applicant's argument that there is no suggestion to combine the

references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case:.

   The Office Action (08/22/06) states, "As suggested by Moshal, users should have

access to an easily understandable version of a the current state of critical data and any

objects other than circles could be used to represent the buyers and sellers (and

inherently, there respective offers also)." See page 7 of Office Action.

See also, Moshal paragraphs [0003] [0006] [0047] for example. [0003] of Moshal

which suggests how it is desireable for a user to have access to an understandable

version of critical data. In [0006] of Moshal, the objects described, are not limited to a

particular shape, however Moshal emphasizes that the characteristics of the object

must convey information about the buyer and seller and their respective bids or offers.

[0047] of Moshal suggests that the representation shown provide examples only.

<u>Applicant argues, that impermissible hindsight reasoning is used.</u>

In response to applicant's argument that the examiner's conclusion of

obviousness is based upon improper hindsight reasoning, it must be recognized that

any judgment on obviousness is in a sense necessarily a reconstruction based upon

hindsight reasoning. But so long as it takes into account only knowledge which was

within the level of ordinary skill at the time the claimed invention was made, and does

not include knowledge gleaned only from the applicant's disclosure, such a

reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA

1971).

<u>Applicant argues, the Legal Standard for Obviousness under 35 USC § 103 has</u>

<u>not been established.</u>

Two grounds for rejection under 35 USC § 103 were presented: (1) Moshal as

modified by Official Notice. (2) Moshal in view of the differences between the claimed

invention and Moshal amounting to non-functional descriptive material (and thus were

not given patentable weight). The first ground of rejection were addressed in the

analysis above. Applicant has failed to address the second ground of rejection entirely

and the rationale first cited 11/24/06 is maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

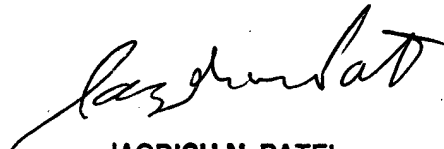than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Sara Chandler whose telephone number is 571-272-

1186. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Trammell can be reached on 571-272-6712. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMC

JAGDISH N. PATEL
PRIMARY EXAMINER